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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/387,938      | 09/01/1999  | EDWIN E. KLINGMAN    | 54208-35C1          | 3189             |

25696 7590 10/04/2002

OPPENHEIMER WOLFF & DONNELLY  
P. O. BOX 10356  
PALO ALTO, CA 94303

EXAMINER

ABELSON, RONALD B

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

2666

DATE MAILED: 10/04/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/387,938

Applicant(s)

KLINGMAN, EDWIN E.

Examiner

Ronald Abelson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 August 1999.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 8/11/1999 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)              | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2</u> . | 6) <input type="checkbox"/> Other: _____                                    |

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***IDS References***

1. The listed reference in the IDS "Understanding Java Technology" was not considered since no copy was provided and the reference is no longer found at the website listed.

***Claim Rejections - 35 USC § 101***

2. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

3. Claims 1-34 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-34 of copending Application No. 09/372,666. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

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*Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 1-13 and 20-31 are rejected under 35 U.S.C. 102(e) as being anticipated by Sonesh (US 6,046,762).

Regarding claims 1, 29, and 31, Sonesh teaches a method and apparatus for a data processing system for managing incoming calls having an organization database (fig. 1 box 130, col. 6 lines 48 - 59) and a plurality of agents (fig. 1 see agent telephones and workstations). The method comprises receiving one

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or more incoming calls by a call manager (fig. 1 acd-minicomputer), created an associated call object (caller's data, col. 7 lines 12 - 32), playing a voice menu (col. 5 lines 33 - 42), receiving one or more input signals (agents are selected based on the caller identification and service and/or area of interest, col. 7 lines 12 - 32), and managing the incoming call (col. 7 lines 12 - 45).

Regarding claims 6, 13, 26, and 30, in addition to the limitations listed in claims 1 and 29, Sonesh teaches determining if an agent is available (col. 7 lines 12 - 32), if the agent is available transferring the call to the agent (col. 7 lines 12 - 32), if the agent is not available obtaining another department table / agent (col. 7 lines 33 - 45), and disconnecting from the caller (fig. 6 box 615, 620, col. 10 lines 33 - 65).

Regarding claim 9, 24, 25, and 28, in addition to the limitations listed in claims 1 and 26, Sonesh teaches an ISDN interface (col. 5 lines 13 - 32).

Regarding claim 2, listening for an incoming call and connecting to the incoming call (fig. 1 acd-minicomputer, col. 5 lines 33 - 42).

Regarding claim 3, receiving a selection event from the caller and determining from the selection event (agents are

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selected based on the caller identification and service and/or area of interest, col. 7 lines 12 - 32).

Regarding claim 4, the selection event is a DTMF tone produced by the caller (col. 5 lines 50 - 60).

Regarding claim 5, the selection event is voice input (col. 5 lines 50 - 60).

Regarding claim 8, agents have access to the database (col. 6 lines 48 - 60).

Regarding claim 10, the examiner takes official notice that it is common practice to operate on the D-channel of ISDN with the X.25 protocol.

Regarding claim 11, information communicated includes agent status and queries not visible to the caller (agent station has access to external communication services, col. 2 lines 40 - 61).

Regarding claim 12, agents can communicate to each other via the Internet (fig. 1 box 125, 113, and 120).

Regarding claims 20-22, the call center responds to user inputs (agents are selected based on the caller identification and service and/or area of interest, col. 7 lines 12 - 32).

Regarding claim 23, the call manage can invoke different the call objects (col. 7 lines 12 - 46).

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*Claim Rejections - 35 USC § 103*

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 7 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sonesh as applied to claim 6 above, and further in view of Reksten (US 6,396,909).

In addition to the limitations listed in claim 6, the system includes voice mail (col. 2 line 62 - col. 3 line 4).

Reksten teaches both voice mail and a call operator (col. 6 lines 4 - 25).

Therefore it would have been obvious to one of ordinary skill in the art, having both Sonesh and Reksten before him/her and with the teachings [a] as shown by Sonesh, an automated call forwarding system, and [b] as shown by Reksten, modern call forwarding systems include both voice mail and operator assistance, to be motivated to modify the system of Sonesh by adding an operator to provide assistance when needed. This modification could be implemented by having an option on the

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menu to provide for operator assistance. This would improve the system by providing a human element when none of the automated responses are satisfactory.

8. Claims 14-19 and 32-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sonesh.

Although not explicitly stated in Sonesh it is well known in the art that Java, XML, and JDBC are well known in the field of computer programming.

Therefore it would have been obvious at the time of the invention to one of ordinary skill in the art to program the call center using Java, XML, and JDBC since they are proven, reliable programming languages.

#### ***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald Abelson whose telephone number is (703) 306-5622. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on (703) 308-5340. The fax phone numbers for the organization where this application or proceeding is assigned



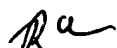
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are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-9600.

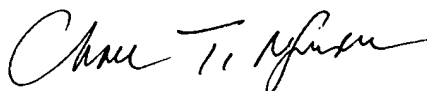


Ronald Abelson  
Examiner  
Art Unit 2663



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October 1, 2002



CHAU NGUYEN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600